

COASTAL CONSERVANCY

Staff Recommendation
December 2, 2004

PALCO (EUREKA) MARSH ENHANCEMENT – UPDATED CEQA FINDINGS

File No. 04-080
Project Manager: Moira McEnespy

RECOMMENDED ACTION: Adopt updated California Environmental Quality Act (CEQA) findings for the City of Eureka's Phase IA enhancement activities at the Palco (Eureka) Marsh.

LOCATION: City of Eureka, Humboldt County

PROGRAM CATEGORY: Resource Enhancement

EXHIBITS

- Exhibit 1: Project Location and Site Map
 - Exhibit 2: Coastal Conservancy Staff Recommendation No. 85-63 (May 19, 1989)
 - Exhibit 3: City of Eureka Initial Study and Mitigation Monitoring and Reporting Program (09/04)
 - Exhibit 4: City of Eureka Mitigated Negative Declaration (signed 09/08/04)
 - Exhibit 5: City responses to comments on the Initial Study and proposed new Mitigated Negative Declaration (09/07/04)
 - Exhibit 6: City of Eureka Resolution No. 2004-46 (passed 09/07/04)
 - Exhibit 7: City of Eureka Notice of Determination (filed 09/09/04)
 - Exhibit 8: CDFG Certificate of Fee Exemption De Minimis Impact Finding (signed 09/08/04)
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RESOLUTION AND FINDINGS:

Staff recommends that the State Coastal Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The revised project remains consistent with the purposes and criteria set forth in Chapter 6 of Division 21 of the Public Resources Code.
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2. The revised project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
 3. The Coastal Conservancy has reviewed the Initial Study and Mitigated Negative Declaration for the Palco (Eureka) Marsh Enhancement Project—Phase IA (attached as Exhibits 3 and 4, respectively, to the accompanying staff recommendation), adopted by the City of Eureka on September 7, 2004 pursuant to the California Environmental Quality Act, and finds that there is no evidence that the project as mitigated may have a significant effect on the environment as defined in 14 Cal. Code of Regulations Section 15382.”
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PROJECT SUMMARY:

Staff recommends that the Conservancy adopt updated California Environmental Quality Act (CEQA) findings for the City of Eureka’s Phase IA enhancement activities at the Palco (Eureka) Marsh.

In 1986, the City of Eureka purchased the Palco Marsh property, including the “pole shed” area and Parcel 4, with Coastal Conservancy funding. In the same authorization, the Conservancy provided funding for an enhancement plan, which was completed in 1987.

In 1988, the City adopted a Mitigated Negative Declaration to conduct tasks recommended in the Palco Marsh Enhancement Plan (by default, Phase I). The Mitigated Negative Declaration found that with mitigations, the enhancement activities would not have significant impacts on the environment. In 1989, the Conservancy approved the enhancement plan and granted funds to the City to implement the plan. The City conducted some of the Phase I enhancement activities, but did not complete all of them due to, among other reasons, encountering and having to remediate contamination at the site.

In 1991, the City adopted a subsequent Mitigated Negative Declaration for revisions to the enhancement plan, which similarly found that with mitigation, the enhancement activities would not have significant impacts on the environment. The Phase II Enhancement Plan provided for restoration and enhancement of wetlands and increased public access opportunities on a portion of the “pole shed” area and on the adjacent “Restoration Area A” salt marsh, and permitted the City to lease a portion of the “pole shed” area to Bay Shore Mall for parking. In 1992, the Conservancy approved the Phase II Enhancement Plan. The City has not, however, conducted any of the Phase II enhancement tasks, which have never been funded.

In 2001, the City renewed its commitment to complete the Phase I enhancement activities. Because of the 12+ year time lapse since start of the enhancement activities, Coastal Conservancy staff worked with the City to consult with the resource and regulatory agencies to ensure that the original enhancement plan was still appropriate, and to incorporate monitoring recommendations. The intent was to update the plan if appropriate, not to re-do the plan.

The updated Plan, called Phase IA, provides for completion of the original enhancement plan tasks that are still appropriate, incorporates recommendations from the monitoring program, and includes some newly-identified enhancement tasks. Major changes under Phase IA include installation of a 48-inch culvert, dredging of the tidal slough, changes in methods for removal of invasive/exotic vegetation, and installation of interpretive signage. Specific changes to the original enhancement activities are as follows:

Palco Marsh Complex

1. Remove tide gate – *completed*
2. Construct an inverted siphon under the City maintenance dike – *completed*
3. Excavate perimeter channel improvements, extend hand dug channels as necessary – *completed*
4. Construct culverts under maintenance dike to allow tidal influx to Railroad (RR) Marsh (connect Palco Marsh to RR Marsh with two 12-inch culverts) – *not completed; included in Phase IA*
5. Remove railroad spur (adjacent to RR Marsh) and grade to marsh elevations – *not completed; included in Phase IA as part of RR Marsh excavation*
6. Clean out channel between RR Marsh and culvert under railroad tracks – *completed*
7. Remove exotic vegetation and excavate channels in RR Marsh – *not completed; included in Phase IA*
8. Replant excavated salt marsh vegetation in Palco Marsh, RR Marsh and along channels, as appropriate – *replanting in RR Marsh not completed; included as part of Phase IA*
9. Excavate permanent open water area in cattail/common rush vegetated areas; provide resting islands; provide low dike around open water area; provide adjustable weir – *not completed and not included in Phase IA per recommendation by regulatory agency*
10. Elevate and maintain existing maintenance dike for public access and periodic maintenance – *completed*
11. Remove exotic plants (e.g., common reed) initially, maintain eradication yearly – *partially completed outside railroad right-of-way but unsuccessful; included in Phase IA*
12. Plant riparian buffer areas along road edges, adjacent properties and around parking area for screening – *completed and partially successful; replanting included in Phase IA*
13. Access improvements
 - gravel trail, gates and signs and benches along maintenance dike and Vigo Street – *completed*
 - sidewalks along Del Norte Street, Felt Street and Broadway Avenue – *completed*
14. Replace the collapsing 24-inch culvert that connects Palco Marsh with Humboldt Bay, with a 48-inch culvert that will be connected to the existing two 18-inch culverts under the utility road/pathway along Palco Marsh – *new work not originally included in Phases I or II, but recommended in the interim and final Palco Marsh monitoring reports; included in Phase IA*
15. Replace barrier around concrete junction box; remove tidegate on the culvert from junction box to marsh; install new tide gate on Del Norte Street culvert if necessary Plant riparian buffer areas along road edges, adjacent properties and around parking area for screening – *new work, some of which proposed in the final Palco Marsh monitoring report; included in Phase IA*
16. Hand-dig and clean Palco Marsh channels; dredge tidal slough between Palco Marsh and peninsula west of marsh – *new work consistent with recommendations in the final Palco Marsh monitoring report; included in Phase IA*
17. Install interpretive signage – *new work; included in Phase IA*

Paved Drying Shed Area

1. Remove drying sheds and other debris – *completed*
2. Remove 40-foot-wide strip of paving outside of proposed parking area, berm and plant with riparian buffer – *not completed; included in Phase II*

3. Provide vehicular access barriers where necessary – *completed*
4. Use remaining paved area for drying dredge spoils from excavation of channels and open water area – *area currently still available for a similar use*
5. Remove majority of paved area as part of “Phase II” of project – *not completed; included in Phase II*

Area West of Railroad Tracks

1. Provide public access improvements including parking, sidewalks, information kiosk, picnic area, trail, and an elevated viewing area – *completed*
2. Provide maintenance access for periodic removal of sediment from drainage channel in the least impacting manner – *completed*
3. Provide a temporary dredge spoils drying area adjacent to Del Norte Street – *completed, and will be utilized in Phase IA*

As lead agency under CEQA, the City determined that, due to the length of time since the initial environmental review, changes in environmental conditions, the addition or alteration of work plan components, and the substantial public interest in Palco Marsh, it should prepare a subsequent environmental document. The City then adopted a new Mitigated Negative Declaration on 09/07/04. The Conservancy, as a funder and therefore as a responsible agency under CEQA, must update its own past CEQA findings about environmental effects of the marsh enhancement project.

Site Description: Palco Marsh is located on the eastern shoreline of Humboldt Bay, at the southern edge of the City of Eureka. It is bounded to the North by Del Norte Street, to the East by Felt and Broadway Streets, to the South by Vigo Street and the Bay Shore Mall. The Northwest Pacific Railroad tracks bisect the property in a North-South direction. To the west lie the four-acre upland Del Norte Street peninsula, and approximately 37 acres of tidal flats and shoreline strip of marsh. To the east lie the approximately 40-acre Palco marsh complex, and the approximately six-acre filled and paved former “pole shed” area. The approximately 15-acre “Parcel 4” lies to the south, but is not included as part of the enhancement activities.

Project History: In October 1985, the Conservancy authorized disbursement of \$640,000 to the City of Eureka to acquire the Palco Marsh complex (\$610,000) and develop a marsh enhancement plan (\$30,000). In May 1989, the Conservancy approved the enhancement plan, and authorized disbursement of \$900,000 to the City to implement the enhancement plan. In its approval, the Conservancy concurred with the City’s finding that, with the addition of changes in the project to ensure compliance with Section 7050.5 of the Health and Safety Code and Sections 5097.94 and 5097.98 of the Public Resources Code, and thus to mitigate any potential impacts to cultural resources, the project will not have a significant adverse effect on the environment.

The City has completed some but not all of the original enhancement activities. In June 1992, the Conservancy approved a “Phase II” enhancement plan (implementation of which has not been funded), which provides for restoration of part of the former “pole shed” area in exchange for lease to Bay Shore Mall for parking on the remainder of the pole shed area. Restoration of the pole shed area has not been conducted.

PROJECT FINANCING:

No additional funds are being authorized through this staff recommendation. Previous funding authorizations are as follows:

Previous Coastal Conservancy Implementation Funding	<u>900,000</u>
Total Project Cost	\$900,000

Funds currently encumbered are from 1988 “Proposition 19” Fish and Wildlife Habitat Enhancement Funds. About \$400,000 remain to implement the Phase IA enhancement project.

CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:

In its previous authorization, the Conservancy found the project to be consistent with Chapter 6 of Division 21 of the Conservancy's enabling legislation, and those findings apply equally to continued use of Conservancy funding pursuant to the recommended action. (See Exhibit 2.)

**CONSISTENCY WITH CONSERVANCY'S
STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 5, Objective A**, the project will enhance approximately 40 acres of wetland habitat. Consistent with **Goal 5, Objective C**, the project will eradicate non-native invasive species, including pampas grass, Himalayan berry, brooms, and common reed.

**CONSISTENCY WITH CONSERVANCY'S
PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

Required Criteria

1. **Promotion of the Conservancy's statutory programs and purposes:** See the “Consistency with Conservancy's Enabling Legislation” section, above.
2. **Consistency with purposes of the funding source:** See the “Project Financing” section, above.
3. **Support of the public:** Completion of Palco Marsh enhancement has received widespread interest and support from legislators, State and federal resource agencies, environmental groups, local media, and many concerned citizens.
4. **Location:** The revised project is within the coastal zone of the City of Eureka, Humboldt County.
5. **Need:** Conservancy funds were authorized in May 1989, and remain under contract. Adoption of updated CEQA findings is now needed to include the revised project scope.
6. **Greater-than-local interest:** Humboldt Bay is a resource of regional and State importance, and is significant to locals and the many visitors to California's north coast.

CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:

The project remains consistent with the City of Eureka Local Coastal Program (LCP). (See Exhibit 2.)

COMPLIANCE WITH CEQA:

In 1988, the City of Eureka, as lead agency for the Palco Marsh Enhancement Project under CEQA, adopted a Mitigated Negative Declaration (MND) to conduct tasks recommended in the Palco Marsh Enhancement Plan (by default, Phase I). The City then completed some but not all of these enhancement activities.

The City has now modified the original Phase I enhancement plan into an updated “Phase IA” plan. Major changes under Phase IA include installation of a 48-inch culvert, dredging of the tidal slough, changes in methods for removal of invasive/exotic vegetation, and installation of interpretive signage. The City determined that, due to the length of time since the initial environmental review, changes in environmental conditions, the addition or alteration of work plan components, and the substantial public interest in Palco Marsh, it should prepare a subsequent environmental document.

In September 2004, the City prepared an Initial Study and proposed MND (attached as Exhibits 3 and 4, respectively). The Initial Study identifies potentially significant impacts from the new project components, but determines that they could be mitigated to “less than significant,” as shown in the table below. The Initial Study also contains a Mitigation Monitoring and Reporting Program which specifies that the mitigation measures shall be made conditions of approval for the project, shall be incorporated into design and contract documents prepared by the City for the project, and shall be implemented throughout the duration of the project construction and maintenance. The City Engineering and Community Development Departments may conduct field observations during the construction process to assure implementation.

Category	Potentially Significant Impact	Mitigation Measures that will bring the potentially significant impact to a “less than significant” level
Air Quality	1. Release of fugitive dust and particulate matter during construction. 2. Impacts resulting from burning of common reed.	1. Per the North Coast Unified Air Quality Management District (NCUAQMD), construction contractors must operate in accordance with Air Quality Regulation 1, Chapter IV, Rules 420 and 430, which will reduce potential dust emission impacts. 2. Per the NCUAQMD, burn operators must comply with Air Quality Regulation 2, which governs “open burning,” develop a “smoke management plan,” and obtain a “coordinated burn authorization permit.” This mitigation measure further requires that burning be conducted in a manner

		that minimizes smoke and related air quality impacts to Broadway and surrounding development.
Biological Resources	<p>3. Humboldt Bay Owl's Clover and Point Reyes Bird's Beak occur on the western peninsula and in the northwest portion of the marsh.</p> <p>3b. Eelgrass: A small eelgrass bed occurs in the bay near a channel excavation site, but will be staked prior to excavation in order to be avoided. Direct impacts to isolated clumps of eelgrass occurring up the channel could occur during dredging, but impacts are insignificant due to the size of the clumps. Turbidity impacts will be insignificant.</p> <p>4. If heavy equipment is needed for future re-excavation of channels, it could spread invasives/exotics.</p> <p>5. If heavy equipment is needed for future re-excavation of channels, it could compact soil and damage vegetation.</p>	<p>3. Construction activities must avoid impacts to Humboldt Bay Owl's Clover and Point Reyes Bird's Beak to the extent feasible. If impacts are unavoidable, work must be conducted from September through December, outside the blooming period. The top six inches of soil will be removed, separately stockpiled, and replaced, and original contours restored.</p> <p>4. Heavy equipment used within wetlands must be washed prior to entering the site, and if used in an area that contains invasive plant species, must be washed prior to leaving the site, to avoid introducing exotic plant material into or outside the marsh area.</p> <p>5. No staging of heavy equipment directly in the marshes to the extent feasible. Equipment may only enter the more stable perimeter areas of the marsh, with use of stabilizing mats and minimization of vegetation impacts. Pre-project conditions must be restored.</p>
Hazards and Hazardous Materials	6. Use of heavy equipment poses the potential for a fuel spill or oil leak.	6. The City will inspect construction activities to ensure equipment is free of leaks and in good working order. The City will review and approve a spill containment and cleanup plan.
Hydrology and Water Quality	7. Stockpiled spoils could enter wetlands or bay. Use of cement to construct the headwall in the tidal channel could impact water	7. The City will approve a Stormwater Pollution Prevention Plan that shall contain BMPs per Sections 3 (erosion and sediment control BMPs) and 4 (non-stormwater management/waste

	<p>quality.</p> <p>8. Dredging of the tidal channels between the RR and peninsula, and installation of the 48-inch culvert has the potential for sedimentation impacts to the bay. Excavation of aggraded channels within the marsh could mobilize sediment into the bay.</p>	<p>management and materials pollution, including use of concrete) of the <i>Stormwater Quality Association Stormwater Best Management Practice Handbook for Construction</i> dated January 2003.</p> <p>8. The contractor shall employ techniques to protect water quality when excavating aggraded channels, which may include conducting excavation in the dry, deploying silt curtains at either end of section to be excavated, placing spoils only in upland areas and placing artificial containment such as straw bales around the spoils, isolating the excavation area by temporarily blocking culverts, using siltation basins if dewatering is required.</p>
Transportation / Traffic	<p>9. Hauling spoils will create truck traffic that would impact Broadway Street.</p>	<p>9. The contractor shall prepare a Traffic Management Plan pursuant to the City's standards to address truck traffic. Traffic control measures consistent with Institute of Transportation Engineers, Caltrans, or similar standards shall be implemented during construction.</p>

The proposed new MND included a finding that there is no substantial evidence that the project would have a significant effect on the environment. The proposed new MND was circulated for public and agency comment between August 5 and September 3, 2004. The City received and responded to comments from six entities including the California Department of Fish and Game, the National Marine Fisheries Service, and the Conservancy (Exhibit 5).

On September 7, 2004, the City Council adopted the MND (see Resolution No. 2004-46, attached as Exhibit 6), and on September 9, 2004, filed a "Notice of Determination" (attached as Exhibit 7). The City also filed a finding pursuant to Fish and Game Code Section 711.4 that the project will not have an adverse effect on wildlife resources (see Exhibit 8).

Staff has reviewed the MND and concurs that there is no substantial evidence that the project as mitigated, and additionally tracked as required in the Mitigation Monitoring and Reporting Program, will have a significant effect on the environment. Staff therefore recommends that the Conservancy find that the project as mitigated does not have the potential for an adverse effect on the environment as defined in 14 Cal. Code of Regulations, Section 15382. Staff will file a Notice of Determination upon approval of the project.